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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,061	01/02/2002	Boas Betzler	POU901066US1	9115
46369 7590 04/09/2007 HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			EXAMINER SCUDERI, PHILIP S	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 04/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/039,061

Applicant(s)

BETZLER, BOAS

Examiner

Philip S. Scuderi

Art Unit

2153

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1, 6, 7, 10, 15-17, 20, 21, 26 and 27.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**GLENDON B. BURGESS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

## ADVISORY ACTION

### *Response to Arguments*

#### I. 35 U.S.C. § 112

Applicant's arguments filed 26 March 2007 in regards to the § 112 rejections have been fully considered and are persuasive. The § 112 rejections are withdrawn.

#### II. 35 U.S.C. § 103

Applicant's arguments filed 26 March 2007 in regards to the § 103 rejections have been fully considered but they are not persuasive.

1. Applicant argues that the "piconet" recited in the claims cannot be construed to mean the Internet because applicant appears to believe that the Internet does not necessarily have a range characteristic indicative of a distance within which radio signals carry between wireless devices using direct connection wireless technology (as in Bluetooth networks).

The Internet is a network of networks that does not necessarily always comprise a Bluetooth network. However, connecting a Bluetooth network to the Internet was well known. U.S. Pat. No. 6,452,910 to Vij et al. at abstract. When a portion of the Internet is a Bluetooth network (as is the case here) then it is perfectly reasonable to say that the Internet has a range characteristic as recited in the claims because Bluetooth networks have such a characteristic. *Id.* at col. 2, ll. 20-22 (30 feet).

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2. Applicant argues that the “piconet” recited in the claims cannot be construed to mean the Internet because outside sources (e.g., Webopedia) define the term “piconet” as a network that is not necessarily part of the Internet.

How external sources define the term “piconet” is not relevant because intrinsic evidence takes precedence over extrinsic evidence. Here, the specification defines the term “piconet” by reciting “a piconet is used herein to mean any wireless with direct peer-to-peer capabilities.”

Specification at paragraph 23, ll. 11-13.

3. Applicant argues that notwithstanding applicant’s broadly stated definition of “piconet” in paragraph 23 of the specification, other sentences of that paragraph clearly define characteristics of a piconet which allegedly distinguish the very small network that is a piconet from the Internet.

As applicant is no doubt aware, the claims are given their broadest reasonable interpretation. MPEP § 2111. By applicant’s own admission, the definition of a “piconet” in paragraph 23 is a “broadly stated” definition. So, reliance upon this definition without reading other limitations from the specification into the claims is perfectly reasonable here. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. MPEP § 2145(VI).

4. Applicant argues that transfer of a single IP address in Collins (U.S. Pub. No. 2003/0112823) to device 100 does not equate to transferring a list of active wireless devices in the same piconet because there is allegedly a distinction between the claimed piconet and the Internet.

The examiner disagrees for the reasons set forth above. See bullet #1.

5. Applicant argues that Collins (U.S. Pub. No. 2003/0112823) teaches that the rendezvous service (400) is employed in the communication processing protocol when communications blocker 104/200 in front of device 100 blocks attempts to establish a direct connection.

Whether the rendezvous service is utilized when NAT/firewall 104/200 blocks a communication from device 112 in figure 4b is not relevant because the reference still meets the limitation in question. Collins discloses that the first wireless device (100) successfully attempts to establish a direct connection with device 112. See Collins at paragraph 40. So, Collins teaches transferring by the first device (100) the instant messaging session to a peer-to-peer communication without further employing the instant messaging server (400). See Id.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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